

Remarks/Arguments

Claims 6-15 are pending in this application and are rejected in the final Office Action dated October 4, 2007. Claims 10-13 and 15 are amended herein to alternatively define the subject matter of the present invention.

Re: Claims 6-15

Claims 6-15 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application No. 2003/0208756 by Macrae, et al. (hereinafter, "Macrae"). Applicants respectfully traverse this rejection because Macrae fails to teach or suggest all elements of the claimed invention.

Applicants again note that independent claim 6 recites:

"receiving a plurality of advertisements;
storing said received advertisements;
enabling a user to access said electronic program guide;
determining whether a first type of advertisement exists in said stored advertisements; said first type of advertisement being displayable in response to user navigation within said electronic program guide;
enabling display of a second type of advertisement if said first type of advertisement does not exist in said stored advertisements, said second type of advertisement being displayable independently of user navigation within said electronic program guide; and
enabling display of said first type of advertisement in response to detecting user navigation within said electronic program guide if said first type of advertisement exists in said stored advertisements."
(emphasis added; see claim 6), and

As indicated above, independent claim 6 defines a method for providing two different types of advertisements in an electronic program guide. The first type of advertisement is displayable in response to user navigation within the electronic program guide and the second type of advertisement is displayable independently of user navigation within the electronic program guide. According to the claimed invention, a determination is made as to whether the first type of advertisement exists in stored advertisements. The first type of advertisement is displayed in response to detecting user navigation within the electronic program guide if the first type of

advertisement exists in the stored advertisements. Alternatively, the second type of advertisement is displayed if the first type of advertisement does not exist in the stored advertisements. In this manner, the claimed invention indicates that the first type of advertisement has a higher priority for being displayed than the second type of advertisement.

Macrae fails to teach or suggest the invention defined by independent claim 6. In responding to Applicants' previously submitted arguments, the Examiner relies on paragraph 216, lines 9-11 of Macrae and alleges that:

"an ad sold is the first type of advertisement to fill in the respective available space; if an ad space is not sold, a placeholder [sic, advertisement] as the second type [sic, of] advertisement will fill in for that space." (see page 2 of the final Office Action dated October 4, 2007)

As indicated above, the Examiner alleges that an advertisement that has been sold corresponds to the claimed "first type of advertisement" and alleges that a placeholder advertisement [that fills in for unsold ad space] corresponds to the claimed "second type of advertisement." Later in the final Office Action, however, the Examiner alleges that the claimed "first type of advertisement" [which is displayable in response to user navigation within the electronic program guide] is disclosed by paragraph 327, lines 5-22 and paragraph 328 of Macrae (see page 3 of the final Office Action dated October 4, 2007). Accordingly, there is inconsistency regarding exactly what portion of Macrae the Examiner is relying on for allegedly disclosing the claimed "first type of advertisement."

Moreover, Applicants note that the two portions of Macrae cited by the Examiner as corresponding to the claimed "first type of advertisement" (i.e., paragraph 216 in the first instance, and paragraphs 327-328 in the second instance) refer to two different and independent embodiments that are not disclosed as being related or connected in any manner. This lack of connection between the two cited embodiments is evidenced by the fact that Macrae nowhere teaches or suggests how "a first type of advertisement" that is displayable in response to user navigation within an electronic program guide (as relied on in paragraphs 327-328) can also be a sold advertisement (as relied on in

paragraph 216). That is, the two cited embodiments of Macrae are ostensibly mutually exclusive in that it appears infeasible to sell an advertisement that is displayed "in response to user navigation within the electronic program guide" as claimed, since it is virtually impossible from an advertiser's perspective to accurately predict the manner in which any given user will navigate within an electronic program guide. In any event, Macrae provides absolutely no teaching or suggestion of how these two independent embodiments could be used in conjunction with each other.

Even assuming, *arguendo*, that the two independent embodiments disclosed in paragraph 216 and paragraphs 327-328, respectively, could be used in conjunction with each other, Macrae provides absolutely no teaching or suggestion that the "first type of advertisement" which is "displayable in response to user navigation within the electronic program guide" has a higher priority for being displayed than the "second type of advertisement" which is "displayable independently of user navigation within the electronic program guide" as claimed. That is, Macrae fails to teach or suggest, *inter alia*, "determining whether a first type of advertisement exists in said stored advertisements ... enabling display of a second type of advertisement if said first type of advertisement does not exist in said stored advertisements [and] enabling display of said first type of advertisement in response to detecting user navigation within said electronic program guide if said first type of advertisement exists in said stored advertisements." Accordingly, Macrae fails to disclose all elements of independent claim 6 and its respective dependent claims, as required for a rejection under 35 U.S.C. §102.

Independent claim 10 is deemed allowable for at least the same reasons as independent claim 6 stated above. Moreover, independent claim 10 is amended herein to define steps of:

"receiving a plurality of advertisements from a signal source;
determining which, if any, of said received advertisements includes
pre-defined control data;
storing each of said received advertisements based on said
determination by storing said received advertisement as a first type of
advertisement if said received advertisement includes said pre-defined
control data and storing said received advertisement as a second type of

advertisement if said received advertisement does not include said pre-defined control data"

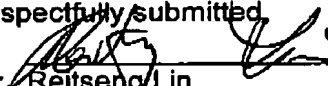
As indicated above, independent claim 10 is amended herein to further define steps of determining which, if any, of the received advertisements includes pre-defined control data and storing each of the received advertisements based on the determination. Applicants submit that Macrae fails to teach or suggest, *inter alia*, the foregoing steps of independent claim 10.

In view of the foregoing remarks/arguments, claims 6-15 are deemed allowable over Macrae and withdrawal of the rejection is respectfully requested.

Conclusion

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding amendments and/or remarks/arguments, this application stands in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's attorney at (609) 734-6813, so that a mutually convenient date and time for a telephonic interview may be scheduled. No fee is believed due. However, if a fee is due, please charge the fee to Deposit Account 07-0832.

Respectfully submitted,

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